IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.12071 of 2004
Date of decision : 06 November, 2006

Raj Kumar and Ors. ...*Petitioners*

Versus

Commissioner, Rohtak Division, Rohtak and Ors. .....*Respondent(s)*

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA
HON'BLE MRS. JUSTICE NIRMAL YADAV

Present: Mr. Sanjiv Gupta, Advocate
for the petitioners

Mr. R.S.Kundu, Additional Advocate General, Haryana
for respondent Nos. 1 and 2

Mr. G.P. Vashisht, Advocate
for respondent No.3 – Gram Panchayat

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ASHUTOSH MOHUNTA, J. (Oral)

The Gram Panchayat of Village Rajepur, Tehsil Indri, District Karnal, had filed a petition under Sections 2 and 7 of the Public Premises and Land (Eviction and Rent Recovery) Act, 1972 against the petitioners and it was averred that the petitioners have unauthorisedly encroached on a part of the street, comprised in khasra No. 153 in Village Rajepur. The Assistant Collector, Ist Grade, Karnal (exercising the powers of Collector), vide his order dated 30.01.2004 (Annexure P-8) found that the petitioners have encroached upon the street in dispute and, accordingly, ordered the eviction of the petitioners.

Against the said order, the petitioners filed an appeal before the Commissioner, Rohtak Division, Rohtak, who vide his order dated 15.07.2004, upheld the order of the Collector and dismissed the appeal, filed by the petitioners. It is against these orders, the petitioners have filed the present writ petition.

This petition came up for hearing before us on October 09, 2006 and learned counsel for the petitioners stated that the petitioners have not encroached upon any portion of the land belonging to the Gram Panchayat, which is a part of the street in dispute and, in case a demarcation of the land in dispute, is got conducted then, it would reveal that there is no encroachment on the part of the petitioners'. Accordingly, we had appointed the Tehsildar to conduct a demarcation of the land in dispute and send his report.

Now, we have received the spot inspection report, sent by the Tehsildar, Karnal and perusal of the same shows that the demarcation was conducted by the Tehsildar, Karnal in the presence of the parties. It has categorically been found that all the petitioners have illegally and unauthorisedly encroached upon the *Gair Mumkin Galli* (Street) comprised in khasra No. 153. A site plan has also been annexed with the report, indicating the extent of encroachment by each of the petitioners.

The learned counsel for the petitioners had also given an undertaking before us that he would be bound by the report made by the Tehsildar.

In view of the above, as all the petitioners have encroached upon the street to the extent as indicated in the site plan, which has been annexed with the report of the Tehsildar, therefore, there is no merit in the writ petition and the same is dismissed. The orders passed by the Collector (Annexure P-8) as well as of the Commissioner, Rohtak Division, Rohtak (Annexure P-9) are, accordingly, upheld.

(ASHUTOSH MOHUNTA)
JUDGE

(NIRMAL YADAV)
JUDGE

November 06, 2006
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